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EXAMINER

CASTELLANO, STEPHEN J

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 01/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/831,201

Applicant(s)

GOTESON, OLA

Examiner

Stephen J. Castellano

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 5/21/02 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner. *Spc 12/30/02*
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 23 October 2002 is: a) ☐ approved b) ☒ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the tubular hollow square profile as discussed in claim 3 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. No specifically shaped cross section of the tubular shaft could be assumed from the drawing of Fig. 1 and 2.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on October 23, 2002 have been disapproved because they introduce new matter into the drawings. 37 CFR 1.121(a)(6) states that no amendment may introduce new matter into the disclosure of an application. The original disclosure does not support the showing of the hidden lines as added by the proposed drawing correction. It is not understood why the inside surface of the tube of the shaft would be hidden from view while the inside contents of axial bearing 4 and bolt 6 are visible.

The amendment filed October 23, 2002 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The statement that the shaft may also support the hanging of more than two compartments or boxes is considered additional subject matter not supported by the original disclosure.

Applicant is required to cancel the new matter in the reply to this Office Action.

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The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Waste Bin Assembly with a Rotatable Shaft Mount and Support.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 contains improper means-plus-function language in line 4 where it states "by means of a bearing and mounting assembly" because it can not be determined if a means for bearing and a means for mounting are both being claimed, or if a bearing and mounting assembly is being claimed. If a bearing and mounting assembly is being claimed then applicant could amend the claim by deleting "means of" from line 4.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Brandstetter.

Brandstetter discloses an emptyable waste bin assembly which is inherently capable of sorting different types of waste, the assembly comprises two compartments (the interior of pail 23 and the space between receptacle 17 and pail 23) hung at a vertical shaft (hub 19) which is

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rotatably mounted beneath a work table (drain board 16) by a bearing and mounting assembly (rod 12, point 15 and cover hub 26 which space the hub 19 from the top end of the rod 12) arranged at the top of the shaft, the compartments are detachably hung at the shaft by a bracket 18 integrally formed with the hub 19 and rivets or screws (the two semicircularly shaped projections on the shaft side of the panel which is adjacent to the receptacle 17) which hold the bracket and shaft detachably to the receptacle 17 and the two compartments contained therein. The compartments are hung by bracket 18 and the rivets or screws at a vertical shaft (hub 19).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brandstetter.

Brandstetter discloses that the shaft is tubular and hollow. Brandstetter discloses the invention except for the square profile of the shaft. As shown in Fig. 2, Brandstetter's shaft has a substantially rectangular profile in this elevation view. It would have been obvious to lengthen the vertical length of the shaft to a square profile to increase the internal surface area of the shaft which contacts the rod to more evenly distribute the force from the weight of the compartments, bracket and contents of the compartments to reduce the stress concentration and prolong the life of the shaft. It also would have been obvious to modify the unknown cross sectional profile of the shaft or the profile as seen in plan view to be square in order to provide an indication of the relative rotation of the shaft without looking at the position of the receptacle 17 or the bracket as a matter of design choice.

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Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hay in view of Brandstetter and Bagwell et al. (Bagwell).

Hay discloses a pivotable storage unit having several bins (58,60, 62) for sorting and capable of holding waste material, two of the bins are hung at a vertical shaft which has sections (26, 27, 28), each of the shafts are independently mounted for rotation about vertical support stanchion (80), the connection of the shaft sections (26, 27, 28) to the stanchion (80) defines a bearing and means for mounting arranged at the top of the shaft. Hay discloses the invention except for the shaft is not mounted beneath a work table, the bins are not detachably hung on the shaft or at the shaft and the shaft does not have a square profile. Brandstetter teaches a waste bin which is rotatably mounted beneath a work table (drain board 16). It would have been obvious to remove the support from the bed of the pick-up truck and mount the support beneath a work table in order to relocate the bins so that the bins provide storage proximate to a work table to enable a worker to discard waste materials without leaving the work table. Bagwell teaches detachably hung bins 12 with hooks (34) which engage shaft (cup 21). It would have been obvious to modify the connection between the bins and their shaft sections to be detachable in order to make it convenient to remove a bin in or to relocate or empty the bin. Square profiled shafts are well known. It would have been a matter of obvious design choice to modify the profile or cross section of the shaft to be square.

Applicant's arguments filed October 23, 2002 have been fully considered but they are not persuasive. Single receptacle 17 has two compartments. Applicant's remarks pertaining to the post are not well understood. The examiner agrees that foot or base 5, pipe or tube 7, rod 12,

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collar 20 and cover hub 26 which encircles rod 20 are fixed and stationary. However, hub 19, representing the shaft, rotates.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 703-308-1035. The examiner can normally be reached on M-Th 6:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on 703-308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.


Stephen J. Castellano
Primary Examiner
Art Unit 3727

sjc
December 30, 2002